



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,888	03/20/2006	Dan Davidovici	3081156US01	2999
24113	7590	09/20/2007	EXAMINER	
PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A. 4800 IDS CENTER 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402-2100			ELEY, JESSICA L	
		ART UNIT	PAPER NUMBER	
				2884
		MAIL DATE	DELIVERY MODE	
		09/20/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/572,888	DAVIDOVICI, DAN
Examiner	Art Unit	
Jessica L. Eley	2884	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 March 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 9-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 9-21 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/20/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 03/20/2006 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because pieces of non patent literature do not have a date and therefore can not be considered prior art. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Drawings

The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

Regarding **claims 9 and 19**, the state of the prior art is best exemplified by White. White teaches a multi-photon excitation fluorescence microscope (abstract) having an excitation beam path comprising: an objective lens **20**, which focuses excitation radiation at a focal point in a sample to be excited; a scanning unit **13** which shifts the focal point at least one-dimensionally; and a detecting unit **27** wherein the detecting unit **27** comprises is located on a side of the sample opposite the objective (Fig. 1). However, White does not teach the detecting unit receiving luminescence radiation stimulated by the multi-photon excitation in the sample as such radiation is reflected by mirror **30**, so that it may be received by detector **35** which is located on the same side of

Art Unit: 2884

the sample as the objective **20** and thus does not read on the claims. The prior art does not teach alone or in combination, nor render obvious a detector on the opposite side of the sample from the objective that receives luminescence radiation from the multi-photon source. As all other claims are dependent upon the allowable subject matter in claims 9 and 19, these claims are also found allowable.

Regarding **claims 10-12 and 21**, the prior art does not teach alone or in combination the distance of the focal point of an objective to a detector on the opposite side of the sample being less than the "longest linear dimension" across the detector area. This distance cannot be conclusively calculated from the block diagrams present in the prior art, nor is this distance discussed in the prior art. Moreover the prior art generally has additionally optical elements that would suggest that this distance is greater than the distance across the detector, instead of vice versa.

Regarding **claim 15**, the prior art does not teach alone or in combination a grating applied directly to the bottom surface of the sample carrier. Furthermore it is not obvious in light of the prior art to move the gratings directly onto the sample carrier as this would require the removal of other optical elements such as lenses and filters which are necessary for a clean image in the field of microscopy.

Art Unit: 2884

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

This application is in condition for allowance except for the following formal matters:

The subject matter of this application admits of illustration by drawing to facilitate understanding of the invention. Applicant is required under CFR § 1.81 to furnish the drawings.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dantus teaches a multi-photon microscope that uses a cooled CCD located at a side of the sample opposite the excitation light.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica L. Eley whose telephone number is (571) 272-9793. The examiner can normally be reached on Monday - Thursday 8:00-6:30 EST.

Art Unit: 2884

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLE



DAVID PORTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2880